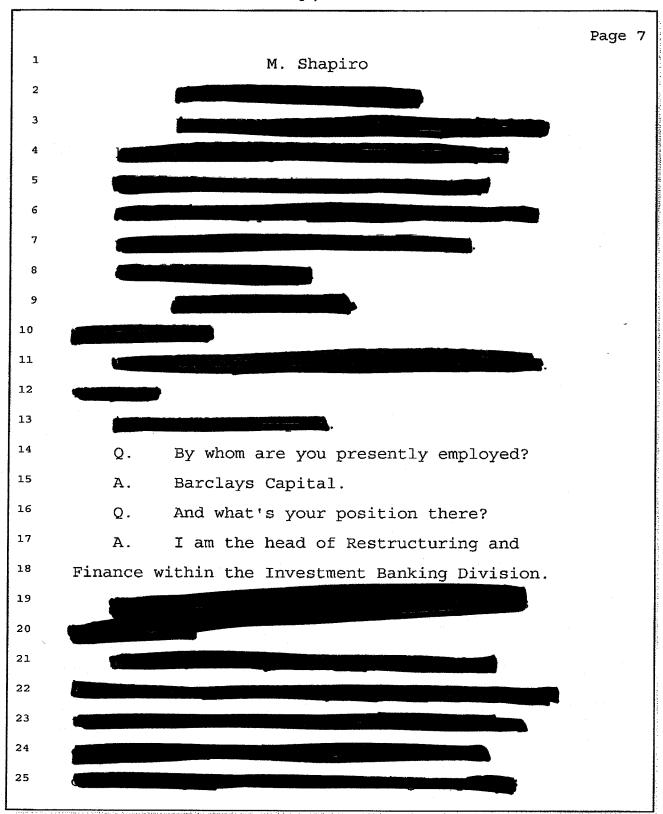
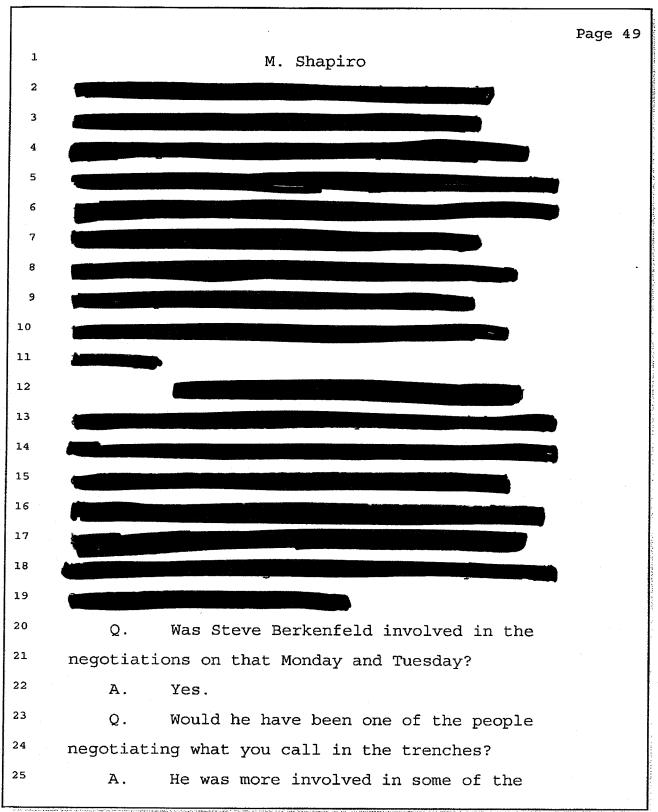
		Page 1
1	M. Shapiro	
2	UNITED STATES BANKRUPTCY COURT	
3	SOUTHERN DISTRICT OF NEW YORK	
4	X	
5	In Re:	
6	Chapter 11	
7	LEHMAN BROTHERS Case No. 08-13555(JMP)	
8	HOLDINGS, INC., et al., (Jointly Administered)	
9		
	Debtors.	
10		
	X	
11		
12	* * *HIGHLY CONFIDENTIAL* * *	
13	DEPOSITION OF MARK J. SHAPIRO	
14	New York, New York	
15	August 7, 2009	
16		
17		
18		
19		
20		
21		
22		
23	Reported by:	
24	KATHY S. KLEPFER, RMR, RPR, CRR, CLR	
25	JOB NO. 24036	

		Page 2
1	M. Shapiro	
2	August 7, 2009	
3	9:30 a.m.	
4		
5	HIGHLY CONFIDENTIAL deposition	
6	of MARK J. SHAPIRO, held at Jones	
7	Day, LLP, 222 East 41st Street, LLP,	
8	New York, New York, before Kathy S.	
9	Klepfer, a Registered Professional	
10	Reporter, Registered Merit Reporter,	
11	Certified Realtime Reporter, Certified	
12	Livenote Reporter, and Notary Public	
13	of the State of New York.	
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Page 50 M. Shapiro legal negotiations. He was definitely at the table from time to time with the lawyers. was not, to the best of my recollection, in the meetings that took place between myself, Mark Shafir, Archie and Michael Klein.

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Page 63 1 M. Shapiro 3 5 6 7 8 9 And how did you go about trying to 10 identify what I'll call the quantum? How big is 11 this number? 12 Α. So I think I first asked George Mack, 13 again, as part of this, to figure out like what 14 were the outstandings that were unpaid under 15 these contracts. And I think he went to 16 somebody and the answer came back we can't 17 possibly figure that out in this time specifically to each contract. It was just, you 19 know, there was no ability, functionally, to do 20 that in the time we had. That's just not -- I 21 was not humanly possible. 22 So but Barclays obviously wanted that 23 information from us, so we started thinking about, well, how could we approximate that 25 amount. And so a group of us, we were talking

Page 64 1 M. Shapiro 2 about it on the Lehman side, and we said, well, 3 one way that we could estimate this was by having somebody look at the payables run, the 5 normal payables run in the ordinary course, exclude comp, right, whatever is normally paid 7 for compensation on a weekly or monthly basis, take a snapshot of a normal payable cycle, all 9 right, so at any given time you have a certainly 10 amount of payables outstanding, not knowing when 11 under every contract a payment was going to be 12 made, and not knowing they were all monthly, 13 necessarily, but we assumed that a lot of them 14 would be paid normally, you know, on a monthly 15 cycle, and provide us with an overall number 16 that would be a proxy for what the payments 17 under, you know, if you were assuming many of 18 those contracts, what those payments estimated 19 could be. 20 So that this was an intent. And we

So that this was an intent. And we told Barclays we couldn't provide them with the specifics that they were looking for, but we would try to get them an estimate of, for them and ourselves, obviously, an estimate of what we thought the amount would be that could be paid

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		Page	65
1	M. Shapiro		
2	if they were going to have to assume all of		
3	these contracts.		
4	Q. Who did that work?		
5	A. I don't know. George George went		
6	off and started talking to people in the finance		
7	area. And there were many people that were		
8	working around, obviously around the clock on		
9	these things trying to pull this information		
10	together for us. I don't know who actually did		
11	the work.		
12	Q. Is George the person that you tasked		
13	to get the number?		
14	A. George is the person who I tasked to,		
15	you know, to get people to provide us with those		
16	numbers.		
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M. Shapiro

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Q. You testified previously that on,

maybe it was Thursday evening or at some point

later in the week, that you thought that there

was some concern about Barclays going through

with the deal, okay? I don't know what language

you used. Tell me what the -- was there

anything that Barclays said to anyone at Lehman

that caused that concern, or was it just a

general anxiety about wanting to get something

done?

15

A. No, it was really a comment that was

made to me by Jim Seery, who said something like

there's a big, I think his words were "shit

show" going on between JPMorgan and Barclays

around the repo and that, you know, JPMorgan was

screwing around doing something that Jim

characterized, as I said, as something that was

not positive, and that, you know, that was

22 putting the deal potentially at risk. That was,

I would say, the nature of what concerned me.

24 So that was it.

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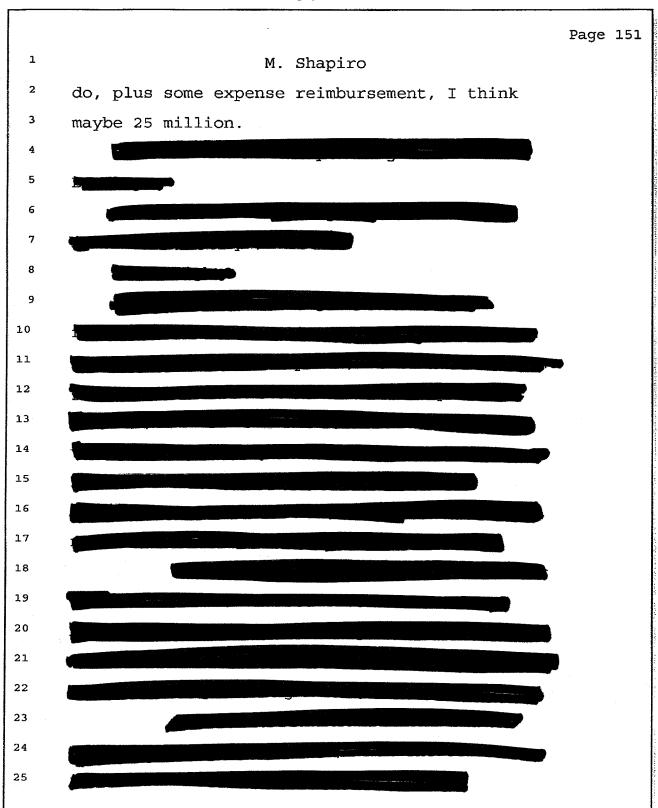
Page 148 1 M. Shapiro 2 4 5 6 8 10 11 12 Let me show you again what has been Q. 13 marked as Exhibit 19 and draw your attention to 14 the cure amount about which you testified previously --16 Α. Yes. 17 -- reflected on this schedule as 18 being, as I read it, 2.25 billion. Do you see 19 that? 20 Α. Yeah, I do see that. 21 Do you recall that number ever 22 changing in the course of the week? 23 I don't remember -- I don't really 24 remember how that 2.25 got in there. 25 personally have a better recollection of a \$1.5

Page 149 M. Shapiro 2 billion number that we were using for -- and 3 obviously it was an estimate, right? So these were all, at the end of the 5 day, as I explained to you earlier, we were 6 trying to do our best at the time to provide 7 Barclays, principally, with a perspective on 8 what it might cost them to take over all of the 9 contracts that could be subject to the 10 assumption of the assignment. And so, as I said 11 earlier, we were trying to come up with an 12 estimate of what that number was. 13 My recollection was we -- I used, in 14 my own head, a billion-five, and the reason I 15 remember that is that when we were negotiating 16 the breakup fee, we were -- I was thinking 17 about -- and I had negotiated the breakup fee in 18 the transaction relating to the stalking horse 19 bid -- I remember thinking, okay, we can do 3, 20 typically 3 percent of the deal. Barclays asked 21 for a lot more going in. They asked -- I think 22 Victor Lewkow told me something like \$250 23 million or something like that. It was big 24 number. And I told him we weren't going to do 25 that, that in my mind that, you know, there

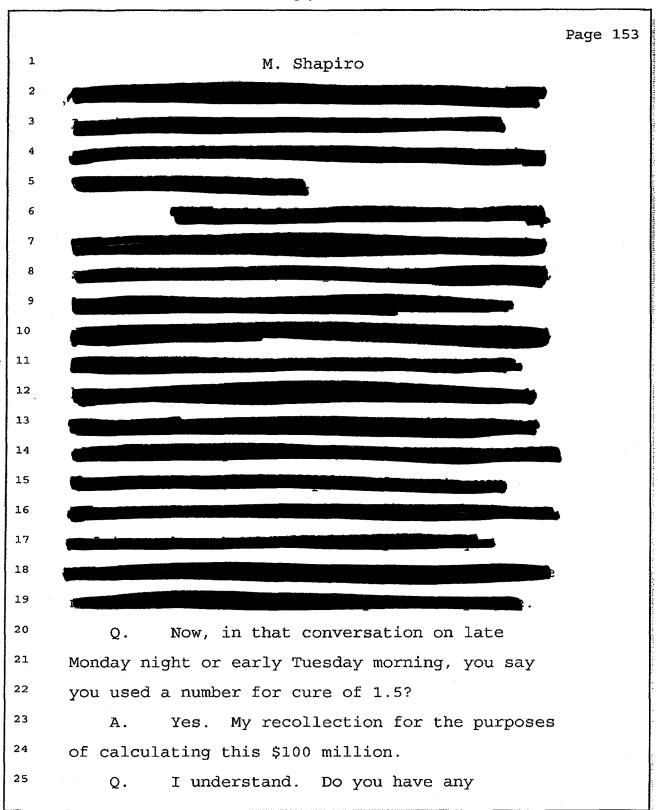
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1 M. Shapiro 2 was -- that that could be perceived as, you 3 know, chilling the bidding. I didn't want any perception of anybody feeling that they couldn't make a bid. 6 Obviously, you know, I said that 3 7 percent was a normal -- he was not a bankruptcy 8 lawyer, by the way. So I was -- I wouldn't say I was educating him because he obviously was a 10 smart guy, but I was explaining to him in my 11 experience what an acceptable number would be 12 from the court's perspective, and at the time my 13 recollection is we were looking at \$250 million 14 for goodwill, it was around a million to a 15 million-450 for the buildings, which ultimately, 16 you know, that was our estimate, we didn't have 17 our desktop appraisals yet --18 MR. STERN: Billion. 19 Α. Billion, yeah, sorry. 20 1.45 billion. That was a 21 billion-seven. We added this estimate for cure 22 costs of a billion and a half, that got us to 23 3.2 billion, and we told them that the \$100 24 million breakup fee would be approximately 3 25

percent and that's what we would be willing to



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M. Shapiro 2 recollection where you got that number and why 3 it's different than number that's in Exhibit 19? Α. The only recollection I have is that, 5 as I said, I had asked people to go back and get 6 me a proxy for what that month, you know, call 7 it snapshot of a monthly payables number would 8 be off of let's call them trade payables, which 9 would really cover contracts that you're paying 10 under, excluding employee liabilities and things 11 like that. 12 Somebody probably in my team who was 13 tasked with that -- it could have been George 14 Mack, it could have been somebody else, Dan 15 Flores -- I'm sure came back to me and said, I'm 16 being told that rough cut around a billion-five, but it was a true estimate, we never told 18 Barclays it was anything other than an estimate, 19 and we told them it could be higher, it could be 20 And it was, at the end of the day, it 21 was always going to be based on what contracts 22 they ultimately assumed. So, you know, which we 23 didn't have any clear view on other than the 24 fact that we thought they were going to need a 25 good chunk of the contracts to operate the firm.